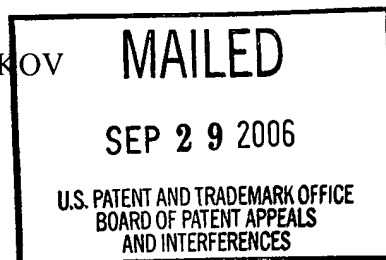


UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte: DAVID L. BAHR, DOUGLAS W. BAHR,
MEENAL V. EKBOTE and ALEXANDRE OKONECHNIKOV

Application No. 09/497,383



ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was received at the Board of Patent Appeals and Interferences on August 29, 2006. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matters requiring attention prior to docketing are identified below.

EXAMINER'S ANSWER

Headings

On May 16, 2006, an Examiner's Answer was mailed, however, it is not in compliance with the new rules under 37 CFR 41.37(c). It is required that any Examiner's Answer be issued in compliance with 37 CFR § 41.37(c)(1)(I).

A review of the Examiner's Answer dated April 17, 2005, indicates that the

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following sections are missing:

- 1) "Real party in interest," as set forth in 37 CFR § 41.37(c)(1)(I).

Appeals Conference

A further review of the Examiner's Answer reveals pertaining to the required appeals conference is not in compliance with the Manual of Patent Examining Procedure (MPEP) § 1208 (8th ed., rev. 1, Feb. 2003).

According to MPEP § 1208:

The participants of the appeal conference should include (1) the examiner charged with preparation of the examiner's answer, (2) a supervisory patent examiner (SPE), and (3) another examiner, known as a conferee, having sufficient experience to be of assistance in the consideration of the merits of the issues on appeal.

On the examiner's answer, below the primary examiner's signature, the word "Conferees:" should be included, followed by the type or printed names of the other two appeal conference participants. These two appeal conference participants must place their initials next to their name. This will make the record clear that an appeal conference has been held.

The Examiner's Answer, mailed May 16, 2006, was not signed or initialed by both of the appeals conference participants. Appropriate correction is required as required under MPEP § 1208.

CONCLUSION

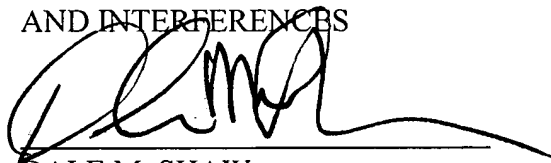
Accordingly, it is

ORDERED that the application is returned to the examiner for:

- 1) vacate the Examiner's Answer mailed May 16, 2006,
- 2) to obtain the conferee's initials or signatures on the Examiner's Answer; and
- 3) for such further action as may be appropriate.

BOARD OF PATENT APPEALS

AND INTERFERENCES

A handwritten signature in black ink, appearing to read 'DMS', is written over a horizontal line.

DALE M. SHAW

Deputy Chief Appeals Administrator
(703)308-9797

DMS/dpv

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Application No. 10/497,383

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